

Lease Agreement

THIS Lease Agreement ("Lease") is made and entered into this **14th day of April, 2020**, by and between Mark Twain Hotel Partners, LP ("**Lessor**"), and the City of St. Louis, Missouri, by and through the Director of Health & Hospitals/Health Commissioner, Dr. Frederick Echols, M.D. ("**Lessee**").

Whereas, Dr. Echols has determined that incurring the expenses herein is necessary to suppress or mitigate a contagious disease pursuant to Art XIII, section 14-C(c) of the Charter.

WHEREAS, On March 13, 2020, a nationwide emergency was declared pursuant to Section 501(b) of the Stafford Act; and

WHEREAS, the State of Missouri's Director of the Department of Health and Senior Services, finding it necessary to protect public health and prevent the further spread of COVID-19, pursuant to the authority granted under section 192.020, RSMo, and 19 CSR 20-20.040, issued a statewide "Stay at Home" order on April 3, 2020;

Whereas, President Trump signed the CARES act March 27, 2020 and the Mega Waivers authority were granted on March 31, 2020 to respond to the coronavirus outbreak, the CARE Act made available ESG-CV funds to supplement the Fiscal Year (FY) 2020 ESG funding provided under the Further Consolidated Appropriations Act, 2020 (Public Law 116-94);

Whereas, the recipients of the ESG-CV funds may deviate from applicable procurement standards when using these funds to procure goods and services to prevent, prepare for and respond to coronavirus, notwithstanding, 24 CFR 576.407 (f) and 2 CFR 200.317-200.326;

Whereas the funds may be used to provide homelessness prevention assistance (as authorized under 24 CFR 576.103 or subsequent HUD notices) to any individual or family who does not have income higher than HUD's Very Low Income limit for the area and meets the criteria in paragraphs (1)(ii) and (1) (iii) of the "at risk homelessness" definition in 24 CFR 576.3;

Whereas, the CARES Act authorizes the HUD Secretary to grant waivers of and specify alternative requirement for statutes and regulations, the Secretary administers in connection with the use of the ESG funds (except for requirements related to fair housing, nondiscrimination, labor standards and the environment). These waivers and alternative requirements can be issued when necessary to expedite and facilitate the use of funds to prevent, prepare for and respond to coronavirus.

NOW THEREFORE, IN CONSIDERATION OF Lessor leasing certain premises to Lessee, and other good and valuable consideration, including the mutual promises and covenants by the parties herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Premises and Use. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, subject to the terms and conditions of this Lease, the location as described upon **Exhibit A**, attached hereto and incorporated by this reference (the "**Premises**"), with services provided by Lessor as described herein. The Premises shall be used for the purpose of providing shelter for the City's homeless population during the COVID-19 pandemic to prevent possible community spread and assuring public health and safety. The term "guests" or "clients" as used herein shall mean the persons designated by Lessee to reside in the guest rooms which are leased by Lessor to Lessee as the Premises.

2. Term. This Lease shall commence on April 14, 2020 and continue for a term through May 31, 2020 (the "**Term**"). Lessee may extend the Term for additional thirty (30) day periods (the "**Extension Term**") with seven (7) day written notice in advance of the expiration of the existing Term given by Lessee to Lessor. This Lease may be terminated by Lessee with seven (7) day written notice in advance of the stated termination date; or with fourteen (14) day notice during any Extension Term (the "**Termination**"). The post-mark of any mailing or the time-date stamp of any electronic (email) communication of the written notice shall be evidence of the date of the notice. Lessee shall be responsible for prorated Lease payments if any Extended Term is terminated prior to the end of the any such Extension Term.

3. Lease Payments

Lessee shall be obligated to pay \$8,500.00 per month to Lessor during the term of the Lease, including any Extension Terms, for the Primary Premises. The lease payment for the month of April shall be prorated based upon the commencement date of this Lease and payable upon the commencement date. The lease payment for May, 2020 shall be due and payable on May 1, 2020. Lease payments for Extension Term(s), if any, shall be due on the first day of each such Extension Term.

4. Lessee Obligations.

Lessee (at its sole cost and expense) shall be obligated to:

- a. Designate an operator for the Premises, including appropriate caseworkers and security staff.
- b. Notify Lessor of any necessary repairs or maintenance as soon as practicable.
- c. Use reasonable diligence in the care and maintaining of the Premises. Upon the final expiration or termination of the Lease, Lessee shall surrender and deliver to Lessor vacant possession of the Premises, together with all of the Lessor's property and furnishings located in the Premises, in substantially the same condition as at the commencement of the term, with the guest rooms in a broom clean and orderly condition, with all of the personal property and other possessions of the guests removed from the Premises and the Building, and with all of the guests having fully vacated the Premises and the Building.

- d. Screen each potential guest for temperature and symptoms of COVID-19 prior to placement at the Premises, including temperature checks and evaluation of recent contacts. Other than for purposes of preventing the spread of COVID-19, no background checks will be required. Lessee shall NOT permit any person who tests positive for COVID-19 to become a guest and/or occupant of a guest room. If any subsequent testing of a guest indicates or discloses that the guest has become or is positive for COVID-19, then: (1) within 6 hours after Lessee being notified of the positive test, Lessee (at its cost) shall relocate the applicable guest to an alternative facility and location that is not a part of the Premises; and (2) within 24 hours after Lessee being notified of the positive test, Lessee (at its cost) shall cause the applicable guest room that was occupied by the applicable guest to be thoroughly disinfectant cleaned and sanitized.
- e. Monitor Premises guests and the upkeep of the units.
- f. Provide activities for guests, such as community TV, books, computer access, etc., within the criteria established by the Association for Professionals in Infection Control and the U.S. Department of Housing and Urban Development (HUD) so as to prevent the spread of infectious diseases among residents.
- g. Provide security, supervision and case management. Each floor will be staffed in accordance with HUD and Center for Disease Control guidelines. With respect to security, the Parties will mutually agree to staff assignments and make adjustments as needed.
- h. Lessee and its Operator shall be required to (i) register guests in a visitor log; (ii) use reasonable diligence to assure ensure that guests obey Premises rules; (iii) assist in removal of guests from the Premises when appropriate; and (iv) a client should such conditions/circumstances occur
- i. Provide Lessor with after-hours emergency contact information.
- j. Arrange for delivery of food to guests at the Premises.
- k. Use reasonable diligence to assure that guests adhere to social distancing recommendations, that include (i) maintaining at least six-feet social distancing from other individuals; and (ii) no more than five (5) people may assemble together for a social gathering at any time.
- l. Instruct guests to place dirty towels and linens neatly outside the unit weekly, fresh towel and linen stock will be provided by Lessor the same day; but not more than once per seven (7) days per guest room, unless Lessee specifically requests additional towel and linen service for a particular guest room. If Lessee requests additional towel and linen service for a particular guest room, then the additional service shall be charged back to Lessee. Lessor will not provide other room services. Any loss of linen or possession of official property of Lessor shall be charged back to the Lessee.
- m. Instruct guests to communicate with Front Desk or Security for any questions or needs.
- n. Provide licensed security guards as needed.

5. Obligations of Lessor.

In consideration for the Lease payments required in Section 3 of this Lease, Lessee shall be entitled to use and occupy the Premises, and, in addition, Lessor shall be required to provide the following for guests at the Premises at no additional cost:

- a. On the commencement date Lessor shall provide furnished, clean guest rooms at the Premises.
- b. Lessor shall furnish all utilities, including but not limited to all lighting, heating, electric, sewer, water (hot and cold), standard supplies incident to the operations at the Premises (i.e., restroom soap, towels, etc.). Lessee acknowledges that air conditioning is NOT provided to the guest rooms. Lessee shall cause the guests to place trash bags and trash receptacles in the hallways outside the guest rooms, and Lessor shall remove the trash and empty the receptacles on a periodic basis. Lessee shall not allow the guests to place any loose trash in the hallways outside the guest rooms. If loose trash is placed in the hallways outside the guest rooms, the added cost to Lessor of removing the loose trash shall be charged back to Lessee as an additional service.
- c. Lessee acknowledges that Lessor does NOT provide wifi, internet or cable for the use of the residents of the Building and the Premises.
- d. Lessor shall provide building maintenance for the Premises, and shall make ordinary and reasonable repairs in a timely manner when notified by Lessee. Lessor is NOT providing any janitorial services for the Premises and the guest rooms.
- e. Lessor shall provide the Premises to the Lessee and shall comply with all laws and ordinances now in force or hereinafter enacted in respect to the use of the Premises.
- f. Lessor shall maintain insurance upon the Premises.
- g. Guests shall be afforded access to coin-operated laundry facility on 2nd floor.
- h. Guests shall be afforded access to Vending machines and microwave building lobby. Lessor will keep the front desk open from 8 a.m. to 5 p.m., Monday through Saturday. Front Desk Manager Renea Coward or General Manager – Ishwinder Arora will be Lessor's point of contact for any problems, requests or unforeseen issues.
- i. Guests will be given an access card to enter the building and Hotel Key, these would need to be turned back to the front desk upon departure. Lessee will pay \$25 to replace each lost key and/or access card.

6. Premises Operating Rules.

Lessee and Lessor acknowledge and agree that the following operating rules and regulations shall apply to the Premises and guests, and shall be enforced by Lessee (at its cost) with respect to the guests which Lessee designates to occupy the guest rooms:

- a. No visitors allowed in guest rooms.
- b. No smoking allowed inside the building.
- c. No visitations to other units or congregation allowed in the hotel premises.
- d. No items should be stored or displayed on the window sills, no personal hangings, like drapes curtains, rags be allowed to hang on windows
- e. Client cannot use any hot plates or skillets in the unit, no propane equipment is allowed in the hotel premises. Microwave or Crock Pots are permissible.
- f. No hangings of clothes or Sprinkler pipes, tampering with any Fire Safety devices are strictly prohibited
- g. Client are to refrain from using Fire Exit stairwells except in emergencies.
- h. No alcohol allowed in common areas.

- i. Unruly, indecent, illegal, threatening or violent behavior will not be tolerated. Any violation of the previously mentioned shall warrant immediate removal from the property.
- j. Guests must dress appropriately, when in common areas or lobby.

7. Liability.

Lessee shall be responsible for any damages, claims, or causes of action for damage to persons or property which occurs on the Premises and which was caused by the action or inaction of Lessee or of any of Lessee's guests. Other than Lessee's guests, Lessee shall not be liable to Lessor or any other person or corporation, including employees, for any damages, claims, or causes of action for damage to their persons or property which occurs on the Premises and the surrounding property which may be caused by the Lessor's staff or by the condition of such property for any reason unless such event is directly caused by Lessee's negligence or by any action of any of Lessee's guests.

8. Notice. Notices to Lessee must be directed to:

Valerie Russell, Commissioner
Department of Human Services
1520 Market Street, Room
St. Louis, MO 63102
Telephone: (314) 657-1651
davisva@stlouis-mo.gov

Dr. Frederick Echols
Director of Health & Hospitals/Health Commissioner,
1520 Market Street, Suite 4045
St. Louis, MO 63103
Telephone: (314) 657-1528
echolsf@stlouis-mo.gov

With a copy to:
City Counselor
1200 Market, Room 314
St. Louis, MO 63103
Telephone: (314) 622-3361
bushj@stlouis-mo.gov

Notices to Lessor must be directed to:

Mr. Amos Harris c/o Brady Capital 906 Olive Street - PH Suite St. Louis, Missouri 63101 Tel No. 314-231-0400 Fax No. 314-231-1548 E-mail: amos@spinstl.com	<u>With a copy to:</u> Ishwinder "Bunty" Arora E-Mail: iarora@embdevelopment.com Tel No. (314) 680-6136
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9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri. It is further agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Lease, or regarding its alleged breach, shall be instituted in the Circuit Court of St. Louis City, Missouri (Twenty-Second Judicial Circuit) or in the United States District Court for the Eastern District of Missouri.

10. **Possible Funding Requirements.** The Parties understand and agree that the City is attempting to address threats to public health on an emergency basis and may seek reimbursement of its costs hereunder from State or Federal agencies, including the Federal Emergency Management Agency ("FEMA"). Lessor agrees to comply with all applicable Federal and State laws, regulations, executive orders, FEMA policies, procedures, and directives, including future directives, as needed to assist the City in seeking such reimbursement, including but not limited to:

a. Compliance with the following access to records requirements: (i) Lessor agrees to provide the City, State officials and/or Federal officials including the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Lessor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions; (ii) Lessor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed; (iii) Lessor agrees to provide the FEMA Administrator or his authorized representatives, if applicable, access to the work site hereunder; (iv) In compliance with the Disaster Recovery Act of 2018, the City and Lessor acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States or other government officials.

b. Lessor shall not use Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

c. If the City seeks financial assistance from FEMA, the Parties acknowledge and agree that FEMA financial assistance will or may be used to fund all or a portion of the Agreement.

In such case, Lessor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

d. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Agreement.

e. Lessor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to this Agreement.

f. Lessor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

11. Entire Agreement. This is the entire agreement and no amendment or modification may be made without the written, mutual agreement of the parties hereto.

12. Warranties and Representations.

The individual executing this Lease on behalf of Lessor represents and warrants that he/she possesses full authority to execute this Lease.

Lessor represents and warrants that it has full authority to execute this Lease and to perform according to the terms and provisions of this Lease.

Dr. Frederick Echols, Director of Health & Hospitals/Health Commissioner of the City of St. Louis, is authorized to execute this Lease on behalf of the City of St. Louis pursuant to his emergency powers and authority under the Charter of the City of St. Louis, Article XIII, Section 14-C (c).

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Lease to be signed by their authorized officials the day and year first above written.

LESSEE:

CITY OF ST. LOUIS

By: 

Dr. Frederick Echols,
Director of Health & Hospitals/Health Commissioner of the City of St. Louis

LESSOR:

MARK TWAIN HOTEL PARTNERS, L.P.,
BY: Mark Twain Hotel Development Co., Inc.

By: 

Amos Harris, President

Register

EXHIBIT A

THE PREMISES

Seventeen (17) guest rooms as available in the building commonly known as the Mark Twain Hotel, located at 205 N. Ninth Street, St. Louis, MO 63101.